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July 22, 2020

Hon. Philip M. Halpern
United States District Court Judge
United States District Court
300 Quarropas Avenue
White Plains, New York 10601

By ECF and Fax

Re: Karl Dibble et. al. v. David Schroedel
et. al. 19-cv-07339

Dear Judge Halpern:

I am writing to the court about a scheduling issue recently created by the pro se defendant and with a suggestion on how to resolve it with a minimum of inconvenience for all other parties and the court.

Under the order of this court of March 27, 2020 (Document No. 40), all Defendants wishing to move to dismiss were given May 26, 2019 to serve (not file), with plaintiffs to respond by July 10, and replies served on July 28. All motion papers filed on that date. Defendant Earth Improvements was granted an extension to serve to June 26, 2020, with Plaintiffs answer on August 10, 2020 and replied to August 28, 2020. All motion papers were then to be filed on August 28, 2020 (Document No. 46).

The pro se defendant, James McGovern, under the March 27, 2020 was to file a Notice of Appearance and his motion on May 26, 2020. We were to e-file his motion for him when we filed Plaintiffs answers to the motions.

The pro se defendant was to be served with a copy of the Mach 27 order, which we did and in accordance with that order, we filed an affidavit of service Document No. 41).

Mr. McGovern did not file a Notice of Appearance, or a timely motion. Late last week, we received a one page letter, which he deemed to be his motion, six weeks after the service date, a week after our response would have been due,

along with the request that we file it. He claimed that due to the pandemic, he has been out of the state for more than three months and only recently saw the March order.

The obvious problem is that our time to answer this motion expired before it was received. As the courts show great leniency with pro se parties, we are assuming the court will excuse this breach of procedure and therefore, we make the following request to resolve the problem.

1. That if the court is going to accept the late filing of Mr. McGovern, that Plaintiffs be given the time to answer until August 10, 2020 (the same date Plaintiffs would answer Earth Improvements) and that any reply by Mr. McGovern be served on August 27, 2020;
2. That all motion papers, for all defendants would then be filed with the court on August 28, 2020, with this firm assuming the responsibility of filing any timely reply by Mr. McGovern, as well as the motion we recently received.
3. Mr. McGovern be reminded he still needs to file a Notice of Appearance, to avoid this occurring again.

If this is granted, all motions by all parties, will then still be filed on August 28, 2020 and submitted on that day and the issue raised by the late filing will be resolved.

Respectfully,



James P. Donohue, Jr.

Application granted. Plaintiffs shall serve its opposition on Defendant McGovern's motion to dismiss on August 10, 2020 and Defendant McGovern shall serve his reply on Plaintiffs on August 28, 2020. All papers should be filed, via ECF, by Plaintiffs on August 28, 2020. Defendant McGovern is directed to file a notice of appearance in this action. Additionally, after filing a notice of appearance, the Court encourages Defendant McGovern to consent to receive electronic notification of filings in this case. A consent form is attached to this Order. Plaintiff is directed to mail a copy of this Order to Defendant McGovern and provide proof of service on the docket by July 27, 2020.

Dated: New York, NY
July 23, 2020

SO ORDERED.



Philip M. Halpern, U.S.D.J.



**United States District Court
Southern District of New York
*Pro Se Office***

**Pro Se (Nonprisoner) Consent & Registration Form to Receive
Documents Electronically**

Parties who are not represented by an attorney and are not currently incarcerated may choose to receive documents in their cases electronically (by e-mail) instead of by regular mail. Receiving documents by regular mail is still an option, but if you would rather receive them only electronically, you must do the following:

1. Sign up for a PACER login and password by contacting PACER¹ at www.pacer.uscourts.gov or 1-800-676-6856;
2. Complete and sign this form.

If you consent to receive documents electronically, you will receive a Notice of Electronic Filing by e-mail each time a document is filed in your case. After receiving the notice, you are permitted one “free look” at the document by clicking on the hyperlinked document number in the e-mail. Once you click the hyperlink and access the document, you may not be able to access the document for free again. After 15 days, the hyperlink will no longer provide free access. Any time that the hyperlink is accessed after the first “free look” or the 15 days, you will be asked for a PACER login and may be charged to view the document. For this reason, *you should print or save the document during the “free look” to avoid future charges.*

IMPORTANT NOTICE

Under Rule 5 of the Federal Rules of Civil Procedure, Local Civil Rule 5.2, and the Court’s Electronic Case Filing Rules & Instructions, documents may be served by electronic means. If you register for electronic service:

1. You will no longer receive documents in the mail;
2. If you do not view and download your documents during your “free look” and within 15 days of when the court sends the e-mail notice, you will be charged for looking at the documents;
3. This service does *not* allow you to electronically file your documents;
4. It will be your duty to regularly review the docket sheet of the case.²

¹ Public Access to Court Electronic Records (PACER) (www.pacer.uscourts.gov) is an electronic public access service that allows users to obtain case and docket information from federal appellate, district, and bankruptcy courts, and the PACER Case Locator over the internet.

² The docket sheet is the official record of all filings in a case. You can view the docket sheet, including images of electronically filed documents, using PACER or you can use one of the public access computers available in the Clerk’s Office at the Court.



**United States District Court
Southern District of New York**

CONSENT TO ELECTRONIC SERVICE

I hereby consent to receive electronic service of notices and documents in my case(s) listed below. I affirm that:

1. I have regular access to my e-mail account and to the internet and will check regularly for Notices of Electronic Filing;
2. I have established a PACER account;
3. I understand that electronic service is service under Rule 5 of the Federal Rules of Civil Procedure and Rule 5.2 of the Local Civil Rules, and that I will no longer receive paper copies of case filings, including motions, decisions, orders, and other documents;
4. I will promptly notify the Court if there is any change in my personal data, such as name, address, or e-mail address, or if I wish to cancel this consent to electronic service;
5. I understand that I must regularly review the docket sheet of my case so that I do not miss a filing; and
6. I understand that this consent applies only to the cases listed below and that if I file additional cases in which I would like to receive electronic service of notices of documents, I must file consent forms for those cases.

Civil case(s) filed in the Southern District of New York:

Note: This consent will apply to all cases that you have filed in this court, so please list all of your pending and terminated cases. For each case, include the case name and docket number (for example, John Doe v. New City, 10-CV-01234).

Name (Last, First, MI)

Address City State Zip Code

| | |
|------|-----------|
| Date | Signature |
|------|-----------|

Return completed form to:

Pro Se Office (Room 200)
500 Pearl Street
New York, NY 10007